

## An ordinance, ascertaining what captures on water shall be lawful

### **AN ORDINANCE, Ascertaining what Captures on Water shall be lawful. In pursuance of the Powers delegated by the Confederation in Cases of Capture on Water:**

**Be** it ordained by the united states in congress assembled, that from and after the first day of February next, all resolutions and ordinances of congress relating to captures or recaptures on water, and coming within the purview of this ordinance, except as is hereon after excepted, shall be null and void: but questions of this nature arising before, or which shall be undetermined at that day, shall be determined at any time during the war with Great Britain, according to them, in the same manner, as if this ordinance had never been made.

It shall be lawful to capture and to obtain condemnation of the property hereinafter enumerated, if found below high water mark - that is to say,

All ships and other vessels of whatsoever size or denomination belonging to an enemy of the united states, with their rigging, tackle, apparel and furniture.

All goods, wares, and merchandises belonging to an enemy, and found on board of a ship or other vessel of such enemy.

All contraband goods, wares and merchandizes to whatever [nation?] belonging, although found in a neutral bottom if destined for the use of an enemy, but the goods, wares and merchandizes belonging to an enemy, contraband goods and goods destined to a blockaded, invested or besieged port, being always excepted, found in a vessel belonging to a foreign nation, other than an enemy, shall in no case be subject to condemnation. Provided nevertheless that from and after the first day of March, in the year one thousand

## Library of Congress

seven hundred and eighty-two, all goods, wares and merchandizes [?] the growth, produce or manufacture of Great-Britain, or of any territory depending thereon, if found within three leagues of the [?] destined to any port or place of the united states, in any ship or vessel belonging to the citizens of the said states, or the subjects of any neutral power, shall be liable to capture and condemnation, unless the same shall have been previously captured from the enemy and condemned, or in consequence of capture, may be proceeding to some part or place not in the power of the said enemy, for trial and condemnation.

All ships or other vessels, goods, wares and merchandizes belonging to any power, or the subjects of any power against which letters of marque or reprisal shall have issued.

All ships or other vessels, with their rigging, tackle, apparel and furniture, and with their cargoes, to whatsoever nation belonging, destined to any port or place invested, besieged or blockaded, by a sufficient force belonging to, in the service of, or cooperating with the united states, so effectually as that one cannot attempt to enter into such port or place without evident danger.

All ships or other vessels, with their rigging, tackle, apparel and furniture, and with their cargoes, found in the possession of pirates.

The goods, wares and merchandizes to be adjudged contraband, are the following, that is to say,

Cannon, mortars, fire-arms, pistols, bombs, grenadoes, bullets, balls, fuses, flints, matches, powder, salt petre, sulphur, [?], pikes, swords, belts, pouches, [cartonca?] boxes, saddles and bridles, in any quantity beyond what may be necessary for the ships provision, and may properly appertain to, and be adjudged necessary for every man of the ships crew or for each passenger.

If it shall manifestly appear, that of any entire thing of which division cannot be made without injury to its value, a subject of the enemy, and a citizen or a subject of a foreign

## Library of Congress

power, not being an enemy, are joint-holders, the whole shall be condemned and sold for gold or silver, the proper proportion of the net proceeds of which shall be deposited in the treasury of the state in which the sale shall be to be paid to the order of such citizen, or the subject of such foreign power.

If such division can be accomplished, but neither the citizen, nor the subject of a foreign power, nor his agent, shall require specific restitution of his property, there shall be a sale in the same manner, as if the property were indivisible. But if in such case a requisition be made to that effect, the due proportion shall be specifically restored.

Where property shall have been originally captured on land from a [?], or a citizen of the united states, and shall be recaptured below high water mark by another citizen thereof, restitution shall be made to the former on or upon the payment of a reasonable salvage, not exceeding one fourth part of the value: no regard being had to the time of possession by the enemy.

In all cases of recapture by an armed vessel, sitted out at the expence of the united states, of a vessel or other [?] belonging to a citizen, the court shall adjudge the proportion which would be due to the united states, to be remitted to such citizen, no regard being had to the time of possession by the enemy.

On the recapture by a citizen of any Negro, Mulatto, Indian or other person, from whom labour or service is lawfully claimed by a state or a citizen of a state, specific restitution shall be adjudged to the claimant, whether the original capture shall have been made on land or water, and without regard to the time of possession by the enemy, a reasonable salvage being paid by the claimant to the receptor, not exceeding one fourth of the value of such labour or service, to be estimated according to the laws of the state under which the claim shall be made.

## Library of Congress

But if the service of such Negro, Mulatto, Indian or other person captured below high water mark, shall not be legally claimed within a year and a day from the sentence of the court, he shall be set at liberty.

In all other cases of recapture, restitution shall be made to the owner upon payment of one third part of the true value for salvage, if the property shall have been retaken in less than twenty-four hours after the capture. But if it shall not have been retaken until the expiration of twenty-four hours after the capture, restitution shall not be made of any part.

Besides those who are duly authorised to make captures by a special commission, captures of the property of an enemy shall be adjudged lawful when these:

1st. By a private vessel not having such commission, satisfactory proof being produced that they were made in pursuing the course of her voyage, and repelling a previous attack from an enemy.

2d. By any body or detachment of regular soldiers.

3d. By inhabitants of the country, if made within cannon that [?] [?].

4th. By an armed vessel falling under a commission of his most christian majesty.

5th. By the crews of British vessels, while captures of this fort are licenced by the British.

Recapture shall be made by no other persons than those authorised to make capture, except the crews of vessels retaken.

The destruction of papers, or the possession of double papers by any captured vessel, shall be considered as evidence for condemnation, unless good cause be shewn to the contrary.

## Library of Congress

From and after the first day of February, which shall be in the year of our Lord one thousand seven hundred and eighty two, any letter of passport or safe conduct, granted before the 27th of March last, under the authority of congress, to any person whatsoever, for removal of property from a place beyond sea within the dominions or possessions of the British king, shall be void.

Upon the capture of a vessel commissioned as a man of war or privateer, by any of the vessels of war of the united states of America, the whole of the property condemned shall be adjudged to the captors, to be divided in the following manner (saving to all persons who shall lose a [?] [?] any engagement or shall be otherwise disabled in the service of the united states, every benefit accruing to them under the resolutions of congress of the 28th day of November, one thousand seven hundred and seventy five) that is to say,

To the commander in chief of the navy of the united states, shall be allotted one twentieth part of all prizes taken by an armed vessel or vessels under the orders and command; when there shall be no such commander in chief, the one twentieth part allotted to him shall be paid into the treasury of the united states.

To the captain of any single armed vessel two twentieth parts, but if more ships or vessels be in company when a prize is taken, then the two twentieth parts shall be divided equally among all the captains.

To the captains of marines, lieutenants and masters, three twentieth parts of all prizes taken when they are in company, to be divided equally among them.

To the lieutenants of marines, surgeons, chaplains, pursers, boatswains, gunner carpenters, masters mates and the secretary of the fleet, two twentieth parts, and one half of one twentieth part, to be divided equally among them.

To the following petty warrant officers, viz. midshipmen, (allowing for each ship six, for each brig four, and for each sloop two) captains clerks, surgeons mates, stewards,

## Library of Congress

sail makes, coopers, armourers (allowing for each vessel one of each only) boatswain mates, gunners mates, carpenters mates (allowing for each vessel two of each) cooks, cockswains (allowing for each vessel one of each) serjeants of marines (allowing two for each ship and one for each brig and sloop) three-twentieth parts, to be divided equally among them, and when a prize is taken by any vessel, on board or in company of which the commander in chief is, then the commander chief's cook or cockswain shall be added to the last petty warrant officers, and share equally with them.

The remaining eight twentieth parts, and half of the one twentieth parts shall be divided among the rest of the vessels company or companies, as it may happen, share and share alike.

No officer nor man shall have any share, but such as are actually on board their several vessels when any prize or prizes shall be taken, excepting only such as may have been ordered on board any other prizes, before taken, or sent away by his or their commanding officers.

Upon the capture of any other vessel, if made by a vessel of war, belonging to the united states, one half of the property condemned shall be decreed to the united states, and the other half to the captors, to be divided as aforesaid: if by a private vessel not having a commission, the whole shall be decreed to the captors: if by any body or detachment of regular or other troops in the service of the united states, the whole shall be adjudged to the captors, to be divided in proportion to the pay in the line of the army: if by inhabitants of the county, being in arms, the whole shall be adjudged to the captors, to be divided equally among them: provided, that if any such inhabitant shall be wounded in making the capture, he shall be entitled to two shares, and if killed, his legal representative shall to entitled to four shares. If by the crews of British vessels, the whole shall be adjudged to the captors to be divided at the discretion of the court.

## Library of Congress

On recapture by an armed vessel belonging to the united states, of a vessel under the protection of a vessel belonging to the enemy, commissioned as a man of war or privateer, or where the vessel retaken is equipped in a warlike manner, the proportion to be withdrawn from the original owner, shall be divided as in the case of a capture of an enemy's vessel commissioned as a man of war or privateer.

On recapture, by an armed vessel belonging to the united states, of a vessel under the protection of an hostile vessel not commissioned as a man of war or privateer; and where the vessel retaken is not equipped, in a warlike manner, the proportion to be withdrawn from the original owner shall be divided, as in the case of an hostile vessel not commissioned as a man of war or privateer.

The rules of decision in the several courts shall be the resolutions and ordinance of the united states in Congress assembled, public treaties, when declared to be so by an act of Congress, and the law of nations, according to the general usages of Europe. Public treaties shall have the pre-eminence in all trials.

The Ordinance shall commence in force on the first day of February, which will be in the year of our Lord one thousand seven hundred and eighty two.

Done by the United States in Congress assembled, the fourth day of December, in the year of our Lord one thousand seven hundred and eighty one, and in the sixth year of our independence. **JOHN HANSON**, President. Attest. **CHARLES THOMSON**, Secretary.

The **ACT** referred to in the foregoing Ordinance is as follows.

**IN** case the commander, for the time being, lose a limb in an engagement, or be otherwise disabled, so as to be rendered incapable afterwards of getting a livelihood to subsist upon, he shall receive out of the best profits of such prize or prizes, or prize goods, (as are taken during the cruise) if so much arise, before divided or distribution be declared, the sum of four hundred dollars: or if he lose his life, his widow or children (if any) shall receive

## Library of Congress

the said bounty of four hundred dollars, together with all prize money to him belonging at the time of his decease. And if the captain of the marines, or any other commission and warrant officer lose a limb, or be otherwise disabled, so as to be rendered incapable afterwards of getting a subsistence, he or they so disabled shall receive a bounty of three hundred dollars, if so much arise from the [?] profits as aforesaid: and in case of death, the widow or children (if any) is, are and shall be entitled to the same, together with their share of prize money due at the time of their decease. And if an inferior officer, seaman or marine lose a limb, or be otherwise disabled so as to be rendered incapable afterwards of getting a subsistence, he or they shall receive a bounty of two hundred dollars, to be deducted as aforesaid, and in case of death, his widow or children (if any) is, are, and shall be intitled to the same, together with his share of prize money due at the time of his decease.

*Philadelphia: Printed by **DAVID C. CLAYPOOLE**, in Market-Street.*

Ordinance of Congress respecting Prizes[?] Decembr 4, 1781